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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/754,116	01/09/2004	Jeffrey Davis Hitzler		7902

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EXAMINER

GUIDOTTI, LAURA COLE

ART UNIT PAPER NUMBER

1744

DATE MAILED: 08/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/754,116	Applicant(s) HITZLER, JEFFREY DAVIS	
	Examiner Laura C. Guidotti	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5 is/are allowed.
- 6) ☒ Claim(s) 6, 8-11 and 15 is/are rejected.
- 7) ☒ Claim(s) 7 and 12-14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>06092006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

1. Claim 10 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 10 recites "...said *brush section* clamps around one of..." which is considered to be new matter. In the drawings and in the disclosure, the Applicant discusses a handle section that clamps around a component of the brush, however it has never been shown in the drawings or discussed in the disclosure that the brush section itself clamps around any portion, particularly the arc or first or second sides of the component. Does Applicant intend to claim that the *handle* section clamps around one of said arc, said first side of said component, and said second side of said component?

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 recites "...said brush section clamps around one of said arc, said first side of said component, and said second side of said component." It is unclear as to how a brush section (shown as 9 in the Figures) can "clamp around" or even simply "clamp" to portions of itself, which includes an arc (20), a first side of the component (21) or second side of the component (22). Does Applicant intend to claim that the *handle* section clamps around one of said arc, said first side of said component, and said second side of said component?

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 6, 8-11, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Mahler, US 1,595,901.

Mahler discloses the claimed invention including a brush section comprising bristles (2) and a component (9 or 10), the component comprising an arc (Figure 1, plate 9 has an arc), a handle section (4) comprising a first end (lowermost end of 5 and includes 6, 7) and a second end (unlabeled, uppermost end as shown in Figures 1-2), the first end of the handle section clamps around and onto the component in a selected

Art Unit: 1744

angular orientation (via 17, 18, 19; see Figures 1-2; Page 1 Line 87 to Page 2 Line 47).

Regarding claim 8, the handle section first end comprises a semicircular section (comprised of 6, 7 when joined form a semicircular edge, Figure 2) that partially encloses the component to clamp around the component (Figure 2). Regarding claims 9 and 15, the component (9 or 10) is a U-shaped component (as shown in Figure 1) comprising an arc (upper perimeter surface of 9 or 10, Figure 1), a first side and a second side, the second side being parallel to the first side (first and second sides are the face surfaces of 9 or 10 which are shown as the left and rightmost surfaces of 9 or 10 as shown in Figure 2). Regarding claim 10, the handle section is clamped around an arc and first and second sides (as shown in Figures 1-2). Regarding claim 11, there is a brush section having bristles (2) and a U-shaped component (9, 10), and a handle section (4) having a first end (lowermost end of 5 and includes 6, 7) and a second end (unlabeled, uppermost end as shown in Figures 1-2), the first end being lockably connectable to the U-shaped component (via 17, 18, 19; Page 1 Lines 87-94), wherein the handle section is selectably and lockably oriented in a desired angular position with respect to the brush section (Page 1 Line 87 to Page 2 Line 47).

4. Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Marino et al., US 3,928,886.

Marino et al. disclose the claimed invention including a brush section having bristles (12) and a U-shaped component (18), and a handle section (14) having a first end (16) and a second end (end connected to 20), the first end being lockably connectable to the U-shaped component (as 16 has threads and is capable of being

Art Unit: 1744

locked in connection to 18 through threaded openings 34, Column 2 Lines 13-19), wherein the handle section is selectably and lockably oriented in a desired angular position with respect to the brush section (as handle is selectably locked in openings 34, Column 2 Lines 13-19).

Allowable Subject Matter

5. Claim 5 allowed.
6. Claims 7 and 12-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. The following is a statement of reasons for the indication of allowable subject matter:

None of the prior art made of record includes a paint brush having bristles and a U-shaped component, a handle having two ends, a first end being an encircling end that clamps around the U-shaped component, a second end opposite the first encircling end having a hook and an end piece that lock together such that the handle is locked to the U-shaped component of the paint brush section, the first encircling end including protrusions that add a clamping force to the handle.

Also, none of the prior art made of record includes a brush section comprising bristles and a component, the component being an arc, a handle section comprising a first end and a second end, the first end of the handle section clamps around and onto the component in a selected angular orientation, wherein the handle section comprises

Art Unit: 1744

a first leg and a second leg that lock together in a locked position, and have a V-shape when in an unlocked position.

Also, none of the prior art made of record includes a brush section having bristles and a U-shaped component, and a handle section having a first end and a second end, the first end being lockably connectable to the U-shaped component, wherein the handle section is selectably and lockably oriented in a desired angular position with respect to the brush section, the handle comprises a first leg with first and second ends, a second leg with first and second ends, and the first end of the first leg and the first end of the second leg form a semicircular end of the handle section that *encircles* the U-shaped component in a desired location and orientation.

Response to Arguments

8. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 1744


shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Guidotti whose telephone number is (571) 272-1272. The examiner can normally be reached on Monday-Thursday, 7:30am - 5pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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GLADYS JP CORCORAN
SUPERVISORY PATENT EXAMINER